

From: S Johnson
To: Microsoft ATR
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Subject: Microsoft Settlement

Punishing, Not Just Correcting Microsoft

Too often what I hear about the proposed action as a result of Microsoft being found as having abused its copyright can be para-phrased as "go forth and sin no more". The ways this message is delivered is very different, of course, for each solution. Some favor the idea of an overwatch committee for a specified amount of time to prevent the abuse happening again. Others proclaim restricting Microsofts ability to flex it's monopoly powers as the real answer. Sometimes they see doing this through technical means such as opening up the APIs of the operating system and associated works. Saying that surely pulling Microsofts favorite weapon over fellow software developers out of it's arsenal would ensure competition. Almost what all proposed remedies to the situation lack however is punishment.

Yes punishment for it's crimes seems mysteriously absent from all of the popular remedies that are bandied about. If a child steals a chocolate does a parent take away the chocolate and think that is enough. That not having the chocolate is punishment enough for having stolen it. If a youth vandalizes the side of a building by spray painting pictures or words, is the proper course of action taking away the cans of spray paint? Of course not. Adults that murder (taking this line of reasoning to its ridiculous end) are not seen as punished if all that is done is taking away their gun.

A crime has been committed. While ensuring that the criminal does not lash out again is very important, almost more so is what penalty is too be associated with exploiting a monopoly to crush one's competition. It is easy to miss this important part as commonly the solution does both.

Going to jail takes an individual out of society and puts him in a very undesirable environment (punishment), and at the same time jail is seen as a correctional facility (preventing the action from recurring). How effective it is to make someone more fit for common society by putting them in the position of having to be as or more dangerous than the worst of society is a whole other argument. However the point remains that any proposed remedy should do both.

I propose that the punishment and the corrective action should be easily seen as separate parts. Just as a parent explaining how wrong it is to steal the chocolate and then spanking or grounding seeks to correct future theivery. The punishment is also the easiest to deliver. Referring again to the case of the chocolate loving child. It is comparatively much easier to spank or ground a child (even though they are loved) than explaining to them in ways that their impressionable young minds will understand why you have to spank or ground them and how bad them taking a chocolate from a store, that seems to have an abundance enough not to notice one missing, is.

A fine of some amount noticeable to the deep coffers of Microsoft could serve as such a punishment. However in my perception of the finances of Microsoft a fine of any amount might be disliked but easily forgotten with

their influx of money. For while it might take great resources to produce their product the resulting physical manufacturing of their work is virtually nil compared to what it is sold for. This is why any hole could be quickly filled and any loss of quality could be palmed off on the fine.

This is why they should be forced to pay a fine to the Free Software Foundation, an organization that seeks to enrich humanity through quality free software. Quite apart from how morally right they might be a large amount of money to the Free Software Foundation, arguably Microsofts biggest competitor, would be a punch directly in the solar plexus of the unrepentant software giant. This would be a remedy that could not so easily be shrugged off. A fine to any organization that directly and competitively opposes Microsoft would do the job just as well. A strong oversight body that had the ability to direct fines so at continued uncorrected behavior would have very sharp teeth.

Even without directly helping Microsofts competitors, a fine would be a clear example that the final verdict was not just another "go forth and sin no more" proclamation to Microsoft.

Samuel O Johnson

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I gaze - the sun doesn't shine -
Rainbows and waterfalls run through my mind

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A present from you - Strawberry letter 22
The music plays, I sit in for a few